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5           UNITED STATES DISTRICT COURT  
6           WESTERN DISTRICT OF WASHINGTON  
7           AT TACOMA  
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9           WENDEL WAYNE JOHNSON,

10           Petitioner,

11           v.

12           MAGGIE MILLER-STOUT,

13           Respondent.

14           CASE NO. C11-5822 BHS

15           ORDER DENYING  
16           PETITIONER'S MOTION TO  
17           SUPPLEMENT THE RECORD

18           This matter comes before the Court on Petitioner Wendel Wayne Johnson's

19           ("Johnson") motion to supplement the record (Dkt. 31). The Court has considered the  
20           pleadings filed in support of the motion and the remainder of the file and hereby denies  
21           the motion for the reasons stated herein.

22           On October 5, 2011, Johnson filed his petition for writ of habeas corpus under 28  
U.S.C. § 2254 in this Court. Dkt. 6. On March 16, 2012, Magistrate Judge J. Richard  
Creatura issued his Report and Recommendations ("R&R") recommending that  
Johnson's petition be dismissed. Dkt. 24. On March 26, 2012,

1 Johnson filed objections to the R&R. Dkt. 25. On May 16, 2012, the Court adopted the  
2 R&R, dismissed Johnson's case and denied a certificate of appealability. Dkt. 26.

3 On May 29, 2012, Johnson filed a notice of appeal to the Ninth Circuit Court of  
4 Appeals, wherein he included a motion for a certificate of appealability to the Ninth  
5 Circuit. Dkts. 30 & 30-1. On August 27, 2012, the Ninth Circuit issued a mandate  
6 denying Johnson's request for a certificate of appealability and striking all other pending  
7 motions as moot. Dkt. 31.

8 Johnson's case before this Court is closed. The Ninth Circuit denied his certificate  
9 of appealability, terminating Johnson's appeal. Based on his motion and the record  
10 before it, the Court finds no basis which would support Johnson's motion to supplement  
11 the record.

12 Therefore, it is hereby **ORDERED** that Johnson's motion to supplement the  
13 record (Dkt. 31) is **DENIED**.

14 Dated this 26th day of February, 2013.

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**BENJAMIN H. SETTLE**  
18 United States District Judge  
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